

UNITED STATES DISTRICT COURT  
for the  
EASTERN DISTRICT OF MASSACHUSETTS

DEBRA FELDMAN,  
Plaintiff

v.

Civil Action No.: 09-10714

TWENTIETH CENTURY FOX,  
TWENTIETH CENTURY FOX TELEVISION,  
TWENTIETH CENTURY FOX GROUP,  
NEWS CORPORATION, NBC UNIVERSAL, INC.,  
UNITED TALENT AGENCY,  
WILLIAM MORRIS ENDEAVOR ENTERTAINMENT  
TOUCHSTONE TELEVISION PRODUCTIONS  
AMERICAN BROADCASTING COMPANIES, INC.  
DELUXE PICTURES INC  
MARK GORDON, MARC KORMAN,  
KEVIN FALLS, SHONDA RHIMES,  
GREG BERLANTI, MARC GUGGENHEIM,  
THE WALT DISNEY COMPANY  
AND DOES 1-75,

Defendants

**Supplement II**  
**Motion to Reopen – 09-10714-cv**  
**Under Fed.R.Civ.P. Rule 60(a) and Rule 60(b)(2)and (6)**

On Wednesday July 13, 2011 former Prime Minister Gordon Brown met with parliament and confirmed that as early as 2002 senior police at Scotland Yard met with News Corp. chief executive Rebekah Brooks informing her of “serious malpractice on the part of her newspaper staff and criminals undertaking

surveillance on their behalf ”.<sup>[1]</sup> In parallel criminal investigations authorities are probing into evidence linking Brooks and former News Corp.’ editor Andy Couslon to police payoffs (bribery) totaling upwards of £100,000 (U.S. \$140,000, approx)<sup>[2]</sup> and “a person with knowledge of the scope of the inquiry, said the [News Corp.] investigation would expand to include hacking into e-mail accounts and other online privacy invasions” (computers)<sup>[3]</sup>

It was reported last week that News Corp. senior journalist Alex Marunchak used photographers and vans leased to News Corp. to run surveillance on behalf of private investigators Jonathan Rees and Sid Fillery,<sup>[4]</sup> both suspected of murdering fellow investigator Daniel Morgan; Rees’ former partner at the firm Southern Investigations.<sup>[4]</sup> There is also evidence of a corrupt relationship between Marunchak and Rees whereby News Corp. payments to Rees for confidential data were actually diverted to Marunchak<sup>[4]</sup> (up to £150,000 a year; U.S. \$210,000 approx.). Another investigation suggests News Corp. surveillance of Detective Chief Superintendent David Cook involved physically following Cook and his young children; acquiring his personal details from police databases; attempting to access his voicemail; that of his wife; and sending a "Trojan horse" email to steal

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[1] <http://www.nytimes.com/2011/07/13/world/europe/13hacking.html>

[2] [www.telegraph.co.uk/news/uknews/phone-hacking/8630482/News-of-the-World-scandal-deliberate-campaign-to-undermine-inquiry-say-police.html](http://www.telegraph.co.uk/news/uknews/phone-hacking/8630482/News-of-the-World-scandal-deliberate-campaign-to-undermine-inquiry-say-police.html)

[3] [www.nytimes.com/2011/07/17/world/europe/17britain.html?src=recg](http://www.nytimes.com/2011/07/17/world/europe/17britain.html?src=recg)

[4] <http://www.guardian.co.uk/media/2011/jul/06/news-of-the-world-rebekah-brooks>

information from Cook's computer.<sup>[4](supra)</sup>

The FBI has mounted its own investigation<sup>[5][6]</sup> with potential federal charges against News Corp.<sup>[7]</sup> U.S. law demands that those holding radio and TV licenses meet character requirements,<sup>[8]</sup> thus felony convictions could revoke or prevent renewal of News Corp.'s 27 U.S. licenses and jeopardize News Corp. broadcasting capabilities<sup>[8]</sup> through its U.S. holdings which include Fox News, 20th Century Fox,<sup>[9]</sup> the Wall Street Journal/Journal Online and Hulu.com with revenues possibly into multiple hundreds of millions of dollars annually.

Although not widely publicized, the 'cover-ups' in an investigation into News Corp. illegal wiretapping run wide;<sup>[10]</sup> whereby John Yates, head of police counter-terrorism ignored 11,000 pages of evidence to 'conclude' that allegations against News Corp. are groundless. Amid Scotland Yard's investigation under Sue Akers Yates resigned as those same 11,000 pages revealed News Corp.'s established "pattern of illegal activity" and has produced lists of 3,870 names, 5,000 land-line and 4,000 cell phone numbers each most probably compromised

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[5] [www.latimes.com/news/custom/la-na-murdoch-fbi-20110715,0,6734074.story](http://www.latimes.com/news/custom/la-na-murdoch-fbi-20110715,0,6734074.story)

[6] [www.nytimes.com/2011/07/18/world/europe/18hacking.html?pagewanted=1&\\_r=1](http://www.nytimes.com/2011/07/18/world/europe/18hacking.html?pagewanted=1&_r=1)

[7] ([www.sfgate.com/cgi-bin/article.cgi?f=/g/a/2011/07/15/bloomberg1376-LOC5WF0D9L35010SV4CAIP8458U6EGPKC9J8PRDP.DTL#ixzz1SDYOi6cg](http://www.sfgate.com/cgi-bin/article.cgi?f=/g/a/2011/07/15/bloomberg1376-LOC5WF0D9L35010SV4CAIP8458U6EGPKC9J8PRDP.DTL#ixzz1SDYOi6cg)

[8] ([www.latimes.com/news/custom/la-na-murdoch-fbi-20110715,0,6734074.story](http://www.latimes.com/news/custom/la-na-murdoch-fbi-20110715,0,6734074.story)

[9] "News Corporation," Wikipedia, Accessed July 13, 2011, [http://en.wikipedia.org/wiki/News\\_Corporation](http://en.wikipedia.org/wiki/News_Corporation)

[10] [www.nytimes.com/2011/07/13/world/europe/13hacking.html?pagewanted=all](http://www.nytimes.com/2011/07/13/world/europe/13hacking.html?pagewanted=all)

by News Corp. ‘hired guns’<sup>[11]</sup> – private investigators who in turn hired criminals and those known to be criminals to hack phones, voice-mail, and medical and financial records<sup>[11]</sup> of persons considered to be ‘un-famous’; such as former Prime Minister (“P-M”) Brown’s young son; relatives of crime victims; the 7/7 bombing; abducted and murdered children; military killed in action. News Corp.’s claim is that information was legally obtained, however clearly no one authorize the release of Prince William of England’s medical condition (data left only in a voice-mail message),<sup>[12]</sup> nor that of former P-M Brown’s child. Brown stated:

*“[News Corp.] will have to explain themselves,” ... “I can’t think of any way that the medical condition of a child can be put into the public arena legitimately unless the doctor makes a statement or the family makes a statement.”<sup>[12]</sup>*

Brown continued:

*“with all the protection and all the defenses and all the security that a chancellor of the Exchequer or a prime minister has, was so vulnerable to unscrupulous tactics, unlawful tactics, methods that have been used in the way we have found what about the ordinary citizen?”<sup>[13]</sup>*

ordinary citizens being among the previously noted ‘un-famous’<sup>[13]</sup>

On Thursday, July 14 News Corp. deputy editor Neil Wallis (former executive editor) was the ninth persons to be arrested in the News Corp. hacking scandal<sup>[5][6](supra)</sup> and a recalcitrant and uncooperative Rebekah Brooks, Rupert and

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[11] <http://thehill.com/blogs/hillicon-valley/technology/171301-news-corp-scandal-crosses-the-atlantic>

[12] [www.telegraph.co.uk/news/uknews/phonehacking/8631210/Phone-hacking-scandal-Prince-of-Wales-and-Duchess-of-Cornwall-warned-of-phone-hacking.html](http://www.telegraph.co.uk/news/uknews/phonehacking/8631210/Phone-hacking-scandal-Prince-of-Wales-and-Duchess-of-Cornwall-warned-of-phone-hacking.html)

[13] Rule 702, 703, Fed.R.Ev.; [www.nytimes.com/2011/07/13/world/europe/13hacking.html](http://www.nytimes.com/2011/07/13/world/europe/13hacking.html)

James Murdoch were finally motivated by summons to testify before a government panel Tuesday, July 19.<sup>[14]</sup> Friday, July 15, 2011 saw News. Corp. publicly apologize to the nation for its phone hacking “campaign” and resignations by both Brooks<sup>[15]</sup> and Les Hinton (Dow Jones/Wall Street Journal). Hinton was a News Corp. chairman and Brooks an editor during the years in which the hacking occurred. Brooks’ resignation, in part, confirms the veracity of News Corp. hacking: “... *I want to reiterate how sorry I am for what we now know to have taken place,*”<sup>[16]</sup>

On Sunday, July 17, 2011 Brooks was arrested for illegally intercepting phone calls and bribing police.<sup>[17]</sup> Just hours later Sir Paul Stephenson; head of Scotland Yard, was the second ‘Yarder’ to tender his resignation.<sup>[17]</sup> By now it is most clear that hacking; per se, is not only a News Corp. reality but News Corp. standard operating procedure. It is equally clear that News Corp. top management knew about it; did nothing to stop it or even curtail it;<sup>[18][14]</sup> and that no phone, voice-mail, e-mail, or computer is beyond the reach of News Corp.<sup>[4](supra)</sup>

In the expert opinion of Eliot Spitzer; formerly of CNN (*Rule 702, 703*,

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[14] [www.telegraph.co.uk/news/uknews/phone-hacking/8630482/News-of-the-World-scandal-deliberate-campaign-to-undermine-inquiry-say-police.html](http://www.telegraph.co.uk/news/uknews/phone-hacking/8630482/News-of-the-World-scandal-deliberate-campaign-to-undermine-inquiry-say-police.html)

[15] (<http://www.guardian.co.uk/media/2011/jul/15/rebekah-brooks-resigns-phone-hacking-scandal>).

[16] [www.usatoday.com/money/media/2011-07-15-rebekah-brooks-news-corp\\_n.htm](http://www.usatoday.com/money/media/2011-07-15-rebekah-brooks-news-corp_n.htm)

[17] <http://www.nytimes.com/2011/07/18/world/europe/18hacking.html>

[18] “Police told News Corp’s Brooks of malpractice: Brown,” Reuters, July 13, 2011, [www.moveon.org/r?r=211222&id=28849-740950-5FlQ5vx&t=8](http://www.moveon.org/r?r=211222&id=28849-740950-5FlQ5vx&t=8)

*Fed.R.Ev.*), hacking by News Corp. is neither limited nor localized<sup>[19]</sup>:

*“It is hard to believe that the misbehavior in Murdoch’s media empire stopped at the water’s edge. Given the frequency with which he shuttled his senior executives and editors across the various oceans—Pacific as well as Atlantic—it is unlikely that the shoddy ethics were limited to Great Britain.”*<sup>[19]</sup>

In 2011, “the continuous release of information – that is only known by a small number of people”;<sup>[20]</sup> is a long-standing News Corp. reality that reads remarkably identical to plaintiff’s May 2009 Cplt./Am. Cplt. and Aug./Sept. 2009 documents and speaks directly to plaintiff’s claims about her ‘un-famous’ computer; her ‘un-famous’ phones; defendants’ replication of not only plaintiff’s work but the details of her personal life known only to a small number of people; the content of phone calls; and the details of HIPPA protected medical records.

### CONCLUSION

The flat dismissal of plaintiff’s case without allowing for metadata<sup>[21]</sup> discovery or comparison of the works was based on her inability to demonstrate the ‘plausibility’ that the defendants accessed anything through hacking. Plaintiff has not only born the significant burden of demonstrating the probability and plausibility the defendants were a party to hacking whatever might benefit them

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[19] <http://news.yahoo.com/blogs/cutline/calls-u-investigate-prosecute-news-corp-grow-louder-184759182.html>)

[20] [www.telegraph.co.uk/news/uknews/phone-hacking/8630482/News-of-the-World-scandal-deliberate-campaign-to-undermine-inquiry-say-police.html](http://www.telegraph.co.uk/news/uknews/phone-hacking/8630482/News-of-the-World-scandal-deliberate-campaign-to-undermine-inquiry-say-police.html)

[21] *Lake v. City of Phoenix*, 218 P. 3d 1004 (AZ: S.Ct. 2009); *O’Neill v. City of Shoreline*, 240 P. 3d 1149 (WA: S.Ct. 2010)

(computers, phones) the defendants' admitted to the actuality of hacking within their ranks "*know to have taken place*"<sup>[15](supra)</sup> which activity is currently the focus of multiple investigations by Parliament, Scotland Yard and the FBI. These investigations lift any bar to a new trial and to granting plaintiff's 25 'requests' for injunctive relief (Cplt. and Am.Cplt.) as supported by striking and probative similarity.<sup>[22]</sup>

Respectfully Submitted,

/s/ Debra Feldman, BFA, MIS, pro se  
Debra Feldman

July 18, 2011

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[22] 4 Nimmer § 13.01[B], 13-13 (2006); Latman, op.cit. "*Thus 'copying' in the first instance is the obverse of independent creation.*" "*In other words, when the question is copying as a factual matter, then similarities that, in the normal course of events, would not be expected to arise independently in the two works are probative of defendant's having copied as a factual matter from plaintiff's work*" ***Positive Black Talk, Inc. v. Cash Money Records, Inc.*** 394 F. 3d 357, 370 (5<sup>th</sup> Cir.2004); (treatise quoted); ***Arpaia v. Anheuser-Busch Cos., Inc.***, 55 F. Supp. 2d 151, 160 (1999) (treatise cited); ***FASA Corp. v. Playmates Toys, Inc.***, 912 F. Supp. 1124, 1168 (1996) vacated as to fees, 108 F. 3d 140 (7<sup>th</sup> Cir.1997)(treatise quoted); ***Tienshan, Inc. v. C.C.A. Int'l Nintendo of Am. Inc.***, 30 U.S.P.Q. 2d 1401, 1421 (1993) (treaties quoted)).

**CERTIFICATE OF SERVICE**

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Dated:  
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/s/ Debra Feldman  
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